



This document is scheduled to be published in the Federal Register on 01/15/2016 and available online at <http://federalregister.gov/a/2016-00678>, and on [FDsys.gov](http://FDsys.gov)

## **DEPARTMENT OF AGRICULTURE**

### **Agricultural Marketing Service**

#### **7 CFR Part 205**

**[Document Number AMS-NOP-14-0012; NOP-14-03]**

### **National Organic Program: Notice of Final Guidance on Substances Used in Post-Harvest**

#### **Handling of Organic Products**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice of availability of final guidance.

**SUMMARY:** The National Organic Program (NOP) is announcing the availability of a final guidance document intended for use by accredited certifying agents, and certified and exempt organic operations. The guidance document is entitled: Substances Used in Post-Harvest Handling of Organic Products (NOP 5023). This guidance document is intended to inform the public of NOP's current thinking on this topic.

**DATES:** The final guidance document announced by this document is effective on [INSERT DATE 1 DAY AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Paul Lewis, PhD, Standards Division, National Organic Program, USDA-AMS-NOP, 1400 Independence Ave., SW., Room 2642-S., Ag Stop 0268, Washington, DC 20250-0268. Telephone: (202) 720-3252, Email: [Paul.Lewis@ams.usda.gov](mailto:Paul.Lewis@ams.usda.gov); Telephone: (202) 260-9294.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On April 25, 2014, the National Organic Program (NOP) published in the Federal Register a notice of availability with request for public comment on a draft guidance document

addressing the permitted substances that may be used in post-harvest handling of organic products (79 FR 22886). The NOP selected the topic for the guidance document announced through this notice in response to questions raised by certifiers and organic operations. These stakeholders requested that the NOP clarify the requirements and limitations regarding the substances permitted in post-harvest handling. The NOP also discussed and received feedback on this topic at a training session for certifiers in Portland, Oregon, in February 2011. The draft NOP guidance can be viewed on the NOP website at <http://www.ams.usda.gov/rules-regulations/organic>. The 60-day comment period closed on June 24, 2014.

NOP received 10 comments on the draft guidance document. Based upon the comments received, the NOP revised and is publishing a final guidance document on Substances Used in Post-Harvest Handling of Organic Products (NOP 5023). The guidance document includes an appendix (NOP 5023-1) where the NOP provides a complete discussion of the comments received and the rationale behind any changes made to the guidance documents.

This final guidance clarifies the USDA organic regulations regarding substances used in post-harvest handling activities such as washing, packing and storage of organic products. There is no discrete section of the National List of Allowed and Prohibited Substances (National List) (7 CFR sections 205.600 through 205.607) designated for substances used in these post-harvest handling activities. Instead, the substances allowed for use in post-harvest handling appear in different sections of the National List (e.g., section 205.601 for crop production, section 205.605 for processing), or are nonsynthetic substances, and are therefore not included on the National List for crop production. This has led to confusion about the point at which crop production for unprocessed commodities ends, when processing starts, and which substances may be used for post-harvest activities that may occur on farm or in a processing facility.

This final guidance provides information to all USDA-accredited certifying agents (certifiers) and certified and exempt organic operations about substances that may be used in post-harvest handling of organic products. More specifically, this final guidance clarifies: 1) what substances may be used for post-harvest handling; 2) the difference between “post-harvest handling of raw agricultural commodities” and “further processing”; and 3) the regulatory requirements for facility pest management. This guidance also defines post-harvest substances and post-harvest handling.

This final guidance is available from the NOP through “The Program Handbook: Guidance and Instructions for Accredited Certifying Agents (ACAs) and Certified Operations”. This Handbook provides those who own, manage, or certify organic operations with guidance and instructions that can assist them in complying with the USDA organic regulations. The current edition of the Program Handbook is available online at <http://www.ams.usda.gov/rules-regulations/organic/handbook>.

## II. Significance of Guidance

This final guidance document is being issued in accordance with the Office of Management and Budget (OMB) Bulletin on Agency Good Guidance Practices (GGPs) (January 25, 2007, 72 FR 3432-3440).

The purpose of GGPs is to ensure that program guidance documents are developed with adequate public participation, are readily available to the public, and are not applied as binding requirements. This final guidance represents NOP’s current thinking on the topic. It does not create or confer any rights for, or on, any person and does not operate to bind the NOP or the public. Guidance documents are intended to provide a uniform method for operations to comply that can reduce the burden of developing their own methods and simplify audits and inspections.

Alternative approaches that can demonstrate compliance with the Organic Foods Production Act (OFPA), as amended (7 U.S.C. 6501-6522), and its implementing regulations are also acceptable. As with any alternative compliance approach, NOP strongly encourages industry to discuss alternative approaches with NOP before implementing them to avoid unnecessary or wasteful expenditures of resources and to ensure the proposed alternative approach complies with the Act and its implementing regulations.

### III. Electronic Access

Persons with access to Internet may obtain the final guidance at the USDA Agricultural Marketing Service website at <http://www.ams.usda.gov/rules-regulations/organic> .. Requests for hard copies of the draft guidance documents can be obtained by submitting a written request to the person listed in the ADDRESSES section of this Notice.

Authority: 7 U.S.C. 6501-6522.

Dated: January 11, 2016

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BILLING CODE 3410-02 P

[FR Doc. 2016-678 Filed: 1/14/2016 8:45 am; Publication Date: 1/15/2016]